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EXAMINER

VU, THONG H

ART UNIT

PAPER NUMBER

2142

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	09/915,656	FOUQUET ET AL.
	Examiner Thong H Vu	Art Unit 2142

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 25 July 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-28 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) Claim(s) _____ is/are allowed.
6) Claim(s) 1-28 is/are rejected.
7) Claim(s) _____ is/are objected to.
8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 25 July 2001 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a))

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) Notice of References Cited (PTO-892)
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date .
4) Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ .
5) Notice of Informal Patent Application (PTO-152)
6) Other: _____

1. Claims 1-28 are pending.

Claim Objections

2. Claim 23 having typing error "a destination coordinate set extant in the received message". Examiner interprets as "set extent".

Double Patenting

3. Claims 1-28 of this application conflict with claims 1-27 of Application No. 09/915,934. 37 CFR 1.78(b) provides that when two or more applications filed by the same applicant contain conflicting claims, elimination of such claims from all but one application may be required in the absence of good and sufficient reason for their retention during pendency in more than one application. Applicant is required to either cancel the conflicting claims from all but one application or maintain a clear line of demarcation between the applications. See MPEP § 822.

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-28 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-27 of copending Application No. 09/915,934. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows:

('934. Claim 1) A method for establishing a network for communicating a message, the method comprising:

providing a network including topographic network devices and communication links interconnecting the topographic network devices, the topographic network devices each having a physical location represented by a topographic coordinate set; and

for each one of the topographic network devices:

assigning to the one of the topographic network devices a network address that includes the topographic coordinate set thereof,

transmitting the topographic coordinate set of the one of the topographic network devices to the topographic network devices directly connected thereto, and

receiving and storing the topographic coordinate set at at least one of the topographic network devices directly connected thereto.

(656.Claim 15). A topographic network device for operation in a network including topographic devices in which each of the topographic network devices has a physical location represented by a topographic coordinate set, in which each of the topographic network devices additionally has a network address that includes the topographic coordinate set, and in which a message configured for transmission through the network includes a destination coordinate set, the destination network set being the topographic coordinate set of a destination network device, the destination network device being one of the topographic network devices, the topographic network device comprising:

channels each configured for connection via a communication link to another of the topographic network devices, the channels including a first channel via which the message is received;

a coordinate store for storing connected device coordinate sets, the connected device coordinate sets being the topographic coordinate sets of the topographic network devices to which the channels are directly connected;

a topographic processor that operates in response to the connected device coordinate sets stored in the coordinate store and the destination coordinate set of the message to identify a second channel to which to forward the message, the second channel being another of the channels.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-28 rejected under 35 U.S.C. 102(e) as anticipated by LeDuc et al [LeDuc 5,845,203].

4. As per claim 1, LeDuc discloses a network for communicating a message, the network comprising topographic network devices and communication links interconnecting the topographic network devices, the topographic network devices each having a physical location represented by a topographic coordinate set and having a network address that includes the topographic coordinate set [LeDuc, a topographical coordinate systems that provide location data to service processing system included network addresses, col 16 lines 1-46].

5. As per claim 2, LeDuc discloses a global positioning system receiver at least temporarily connected to ones of the topographic network devices to supply the topographic coordinate set thereto [LeDuc, GPS, col 7 lines 41-63 et seq].
6. As per claims 3,4 LeDuc discloses each of the topographic network devices is connected to at least one other of the topographic network devices and includes means for transmitting/receiving its topographic coordinate set to the at least one other of the topographic network devices [LeDuc, a topographical coordinance systems, col 16 lines 1-46].
7. As per claim 5, LeDuc discloses ones of the topographic network devices capable of originating the message for transmittal through the network to another of the topographic network devices as a destination network device each include a topographic addressing engine that operates to include the topographic coordinate set of the destination network device in the message [LeDuc, a topographical coordinance systems that provide location data to service processing system included network addresses via Internet, col 16 lines 1-46].
8. As per claim 6, LeDuc discloses the message includes the topographic coordinate set of a destination network device as a destination coordinate set, the destination network device being one of the topographic network devices; and a one of the topographic network devices as an intermediate network device, upon

receiving the message, operates to route the message to another of the topographic network devices, the other of the network devices being physically closer to the destination network device than the intermediate topographic network device [LeDuc, routing via the nearest SS7 signal transfer point, col 14 lines 16-62].

As per claim 7, LeDuc discloses the network addresses of ones of the topographic network devices having substantially coincident physical locations each include an additional numeric data field as inherent features of topographic coordination systems.

9. As per claim 8, LeDuc discloses additional network devices and additional communication links, the additional communication links connecting the additional network devices to ones of the topographic network devices, the additional network devices having conventional network addresses lacking topographic coordinate sets [LeDuc, monitoring, identifying, specifying communication device, col 20 line47-col 21 line 17].

10. As per claim 9, LeDuc discloses the other of the topographic network devices is associated with the destination network device by being directly connected thereto [LeDuc, Dial in direct, col 7 lines 1-40 et seq.].

11. As per claim 10, LeDuc discloses routing the message from one of the topographic network devices located in a first one of the regions to another of the

topographic network devices located in a second one of the regions via the regional network device of the first one of the regions and the regional network device of the second one of the regions [LeDuc, large area regional pages, col 5 lines 1-22].

12. As per claim 11, LeDuc discloses the destination network address includes a domain name; and the other of the topographic network devices is associated with the destination network device by being associated with the domain name included in the destination network address as inherent feature of Internet.

13. As per claim 12, LeDuc discloses the other of the topographic network devices operates to receive the message and to provide a new destination coordinate set for the message [LeDuc, additional component parts, col 7 lines 1-40], the new destination coordinate set being the topographic coordinate set of an output one of the topographic network devices to which the destination network device is directly connected [LeDuc, Dial in direct, col 7 lines 1-40 et seq.].

14. As per claim 13, LeDuc discloses the message includes a destination coordinate set, the destination coordinate set being the topographic coordinate set of a destination network device, the destination network device being one of the topographic network devices as inherent feature of routing table [LeDuc, routing tables, col 10 line 41 et seq.];

the network includes regions, each of the regions comprising at least one regional network device, the regional network device being one of the topographic network devices, the regional network devices of the regions being interconnected by high-capacity communication links, the high-capacity communication links being high-capacity ones of the communication links [LeDuc, satellite network, col 12 lines 1-67];

the topographic network devices in each one of the regions each include additional topographic information indicating the topographic coordinate set of the regional network device of the one of the regions and a topographic extent of at least some of the regions; and a one of the topographic network devices, upon receiving the message, operates in response to the destination coordinate set and the additional topographic information to route the message to the regional network device when the additional topographic information indicates that the destination network device is located in another of the regions [LeDuc, large area regional pages, col 5 lines 1-22].

15. As per claim 14, LeDuc discloses the regional network device operates in response to the destination coordinate set and the additional topographic information stored therein to route the message to the regional network device of the region in which the destination network device is located [LeDuc, additional component parts, col 7 lines 1-40].

16. As per claim 15, LeDuc discloses A topographic network device for operation in a network including topographic devices in which each of the topographic network devices

has a physical location represented by a topographic coordinate set, in which each of the topographic network devices additionally has a network address that includes the topographic coordinate set, and in which a message configured for transmission through the network includes a destination coordinate set, the destination network set being the topographic coordinate set of a destination network device, the destination network device being one of the topographic network devices, the topographic network device comprising:

channels each configured for connection via a communication link to another of the topographic network devices, the channels including a first channel via which the message is received [LeDuc, transmitted, received channels, col 7 lines 1-40];

a coordinate store for storing connected device coordinate sets, the connected device coordinate sets being the topographic coordinate sets of the topographic network devices to which the channels are **directly connected** [LeDuc, Dial in direct, col 7 lines 1-40 et seq.]; and

a topographic processor that operates in response to the connected device coordinate sets stored in the coordinate store and the destination coordinate set of the message to identify a second channel to which to **forward the message**, the second channel being another of the channels [LeDuc, forward the message, col 12 lines 1-67 et seq].

17. As per claim 16, LeDuc discloses the second channel is the one of the channels connected to another of the topographic network devices that is physically closer to the

destination network device than the network device [LeDuc, routing via the nearest SS7 signal transfer point, col 14 lines 16-62].

18. As per claim 17, LeDuc discloses the coordinate store is configured to store, as connected device coordinate sets, topographic coordinate sets received from ones of the topographic network devices directly connected to the channels of the network device.

19. As per claim 18, LeDuc discloses the coordinate store is additionally configured to store at least one of (a) device-type information and (b) additional topographic information for the ones of the topographic network devices directly connected to the network device; and the topographic processor additionally operates in response to at least one of the device-type information and the additional topographic information to identify the second channel [LeDuc, HRL type service control point, col 4 lines 40-67].

20. As per claim 19, LeDuc discloses the coordinate store is additionally configured to store additional topographic information relating to the network [LeDuc, additional component parts, col 7 lines 1-40]; and the topographic processor operates in response to the additional topographic information in lieu of the destination coordinate set of the message to identify the second channel [LeDuc, monitoring, identifying, specifying communication device, col 20 line47-col 21 line 17].

21. As per claim 20, LeDuc discloses the topographic processor operates in response to the additional topographic information to identify, as the second channel, a one of the channels connected at least indirectly (i.e.: relay) to one of the communication links at least one of (a) having a higher transmission capacity, and (b) carrying less pre-existing network traffic [LeDuc, relay, col 7 lines 1-40; monitoring, identifying, specifying communication device, col 20 line 47-col 21 line 17].

22. As per claim 21, LeDuc discloses the network includes regions, each of the regions comprising at least one regional network device, the regional network device being one of the topographic network devices, the regional network devices of the regions being interconnected by high-capacity communication links, the high-capacity communication links being high-capacity ones of the communication links [LeDuc, satellite network, col 12 lines 1-67]; and the topographic processor operates in response to the additional topographic information to identify, as the second channel, a one of the channels connected to the regional network device of the region in which the topographic network device is located [LeDuc, monitoring, identifying or specifying communication device, col 20 line47-col 21 line 17].

23. As per claim 22, LeDuc discloses additional network devices and additional communication links, the additional communication links connecting the additional network devices to ones of the topographic network devices, the additional network devices having conventional network addresses lacking topographic coordinate sets,

the additional network devices including a destination network device; the message includes, instead of the destination coordinate set, a destination network address identifying the destination network device, the destination network address lacking a topographic coordinate set; the topographic network device additionally comprises a topographic translator that operates on receipt of the message and in response to the destination network address to provide the topographic coordinate set of another of the topographic network devices as the destination coordinate set for the message, and the topographic processor operates in response to the destination coordinate set provided by the topographic translator [LeDuc, a converting data, col 6 lines 41-58 et seq].

24. As per claim 23, LeDuc discloses a packet processing engine that operates to inhibit operation of the topographic translator when it detects a destination coordinate set extant in the received message [LeDuc, monitoring, identifying or specifying communication device, col 20 line 47-col 21 line 17].

25. As per claim 24, LeDuc discloses a packet processing engine that operates to detect a destination coordinate set in the message and, when it detects the destination coordinate set, to determine whether the destination coordinate set is equal to the topographic coordinate set of the topographic network device; and a conventional address processor that, when the packet processing engine determines that the destination coordinate set is equal to the topographic coordinate set of the topographic network device, operates in response to the destination network address to identify the

second channel as inherent feature of monitoring process [LeDuc, monitoring, identifying or specifying communication device, col 20 line47-col 21 line 17].

26. As per claim 25, LeDuc discloses a packet processing engine that operates to insert the topographic coordinate set of the topographic network device into the message as a reply-to coordinate set [LeDuc, additional component parts, col 7 lines 1-40].

27. As per claims 26-28 contain the similar limitations set for in claims 1,9,24. Therefore claims 26-28 are rejected for the same rationale set forth claims 1,9,24.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Thong Vu, whose telephone number is (571)-272-3904. The examiner can normally be reached on Monday-Thursday from 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, *Jack Harvey*, can be reached at (571) 272-3896. The fax number for the organization where this application or proceeding is assigned is 703-872-9306

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Thong Vu
Patent Examiner
Art Unit 2142

